



San Domenico di Fiesole, November 5, 2010

Mr. P. Nikiforos Diamadourous
European Ombudsman
1 Avenue du Président Robert Schuman
CS 30403, FR-67001 Strasbourg Cedex
France

Subject: The selection -and recent closure of the- process for the post of "Principal Adviser in Directorate-General Research, Director Designate of the European Research Council Executive Agency (ERCEA) in Brussels" - COM/2009/2390 and COM/2009/10222.

Dear Mr. Diamadourous,

I would like explain in some more detail what lies behind my complaint regarding the subject of this letter, First, to explain facts which are, or can be, publicly known; second, facts and letters which attain directly to me and which I have no problem in making public. Following the language of your 'complaint form,' I am making a complaint against the European Commission, although I would like to specify that I am only complaining against those within the European Commission who have had responsibilities in the matters that I refer to. I am sure you - as well as all the people I know and respect within the EC who have had no part in this matter - understand this. Similarly, the European Research Council appears as an actor in my narrative of the facts: not only does the same caveat apply but nothing can be farther from my intent than to harm the reputation of this incipient organization, so crucial for the development of science in Europe. In any growing body, it is better to eradicate malfunctions and misconducts from the outset...

Background:

- 23/07/2009: release of *The Review of the European Research Council's Structures and Mechanisms*. As an immediate measure "The Panel recommends that the positions of the Secretary-General and Director be merged. The new position should be filled by a distinguished scientist with robust administrative experience." (Recommendation 4.)
- Subsequently, both the European Commission (22/10/2009) and the ERC Scientific Council (25/08/2009) endorse this recommendation.¹
- Following the EC calendar, the vacancy is published in the Official Journal (4/12/2009), with the deadline 5/03/2010².

¹ While the ERC suggests implementing the merge after both holders of the positions end their terms, the EC sets a tight calendar, following the recommendation of being an 'immediate measure': "[E]stablish the post of the ERCEA Director with the profile of a distinguished scientist with robust administrative and managerial experience. The Scientific Council will be involved in the subsequent selection process as foreseen in the legal and regulatory ERC framework and the Guidelines for Appointing Directors of Executive Agencies¹⁰. **Timescale: Q2/2010.**"

For documents, see: <http://erc.europa.eu/index.cfm?fuseaction=page.display&topicID=158>

² Due to not satisfying different requirements, neither the Secretary General nor the Director are eligible for the new post.



- [1/01/2010 Ms Máire Geoghegan-Quinn substitutes Mr Janez Potočnik as Commissioner of Research, Innovation and Science]
- [1/03/2010 Dr. Helga Nowotny substitutes Dr. Fotis C. Kafatos as President of the ERC.]
- Following a selection process, in which the ERC Scientific Council participates, the pre-selection committee shortlists 9, out of 116, applicants, who are interviewed in early June.³ Following these interviews, the pre-selection committee identifies three candidates for the final selection process, which is to include an interview with the Consultative Committee on Appointments (CCA).
- [1/07/2010 Mr. Robert-Jan Smits substitutes Mr. Jose Manuel Silva Rodriguez as Director-General for Research in the European Commission.]
- [31/08/2010 Prof. Andreu Mas-Colell steps down as Secretary General of the ERC]
- Between mid July and early September, the three selected candidates participate in one-day assessment tests.
- 27/10/2010 Without any interview by the CCA or further communication, the Commission, during its 1934th meeting, decides to close the procedure without appointment.

The irregularities and lack of transparency of the process:

The abrupt and inconclusive end to the process already seems strange. In particular, when one takes into account: the importance of the (merged) position of Director of the ERCEA, the communication of the EC endorsing the recommendation of the ERC Review Panel, the cost already incurred by the ineligibility of the Secretary General of the ERC for the post, and the active participation of the Scientific Council in the pre-selection committee resulting in selecting three supposedly suitable candidates. Nevertheless, the above publicly known sequence of events may still be considered an acceptable failure, within the 'normal state of affairs.'

However, a closer look at the process, as I have witnessed, shows worrisome irregularities and lack of transparency. Here are some facts⁴:

- 9/07/2010 I receive a letter from the Secretary to the CCA inviting me to participate in an assessment centre exercise, and announcing that the interview with the CCA will in principle take place on 16/09/2010.
- 3/09/2010 I spend the day in the assessment centre participating in different tests and exercises. At the end of the day, I receive confirmation, via e-mail, of the CCA interview for 16/09/2010. I also

³ I am interviewed on 02/06/2010 and told that, since it is expected that the new Director of ERCEA will start in the Fall of 2010, the next round of interviews for the final candidates is, most likely, to take place in late June, early July.

⁴ The correspondence mentioned here can be found on my web page: www.eui.eu/Personal/rmarimon/ within "Science Policy & Management."



receive an e-mail to urgently call a member of the Scientific Council of the ERC, who was member of the pre-selection committee.

- The member of the SC of the ERC tells me, to my surprise, that the SC of the ERC, in agreement with the new Director General for Research, considers the possibility of ending the process without appointment.
- In the subsequent days the President of the ERC calls me, confirming that alternative plans were being considered, and asking me to withdraw; that in the case that I were to do so, I could be considered, together with the other two finalists – who were willing to withdraw – for the existing post of Secretary General of the ERC; alternatively, if I was to be the only candidate not to withdraw, the interview with the CCA was unlikely to take place.⁵
- 15/09/2010 I receive an urgent e-mail from DG Human Resources and Security saying that, due to unforeseen circumstances my interview with the CCA for the following day, has been cancelled.⁶
- 20/09/2010 I send a letter to Robert-Jan Smits complaining about the interferences and pressures and saying that I was expecting fairness and transparency for the rest of the process.
- 19/10/2010 Having received confirmation that the other two candidates have withdrawn, and not having received a reply to my letter to the DG of Research⁷, I write a letter to the Commissioner for Research, Innovation and Science saying that in more than ten years of collaboration with DG Research I have never witnessed anything like this; expressing my willingness to collaborate with her, as I had with the two previous Commissioners; alternatively, after knowing her plans for the governance of the ERC, stating that I could withdraw my candidacy, if by so doing I could help the process of consolidation of the ERC as an independent, properly funded and managed, world-class research funding institution.
- 29/10/2010 Without having received a reply to either of my two letters, I receive an e-mailed letter from the Secretary of the CCA announcing the closure of the procedure without appointment.

My complaint and request to The European Ombudsman

I would leave aside two aspects that are not negligible, but may not be of your concern: first, the absolute lack of respect with which I have been treated;

⁵ It should be noted that no member of the Scientific Council of the ERC is a member of the CCA for this position. The formal involvement of the SC-ERC in the process ends with the selection by the Pre-selection committee of three final candidates.

⁶ “Due to unforeseen and urgent circumstances one of the panel members is unavailable tomorrow. I, therefore, regret having to inform you that the interview for the selection procedure for the post of Principal Adviser in Directorate-General Research, Director Designate of the European Research Council Executive Agency (ERCEA) is cancelled. A new date still having to be determined, we will contact you again soonest.”

⁷ My experience with proper administrative practices is that a letter, such as my 20/09/2010 letter to the DG of Research, should be answered within two weeks.



second, my serious worry that what happened is not so much bad news for me, but for the ERC.

On the complaint form I have specified (in 4 & 5), as requested, what I consider the European Commission 'has done wrong' and what it 'can do to put things right'. In summary, I am requesting a simple inquiry that I would like you to pursue, to clarify and, possibly, take action: *have proper administrative procedures been followed?* Obviously by 'proper' I do not just mean 'within EU administrative law,' but the proper practices which avoid unnecessary costs and are based on the trust and transparency that I understand you want to see followed in all the institutions and bodies of the European Union. In my opinion, to consolidate the success of the ERC, and to achieve its proper independent governance, will require the highest standards of all the actors involved. Your inquiry should help to achieve this goal.

Feel free to contact me directly should further information be needed, and let me thank you in advance for your attention and, hopefully, collaboration in this disturbing matter.

Sincerely,

Ramon Marimon
Director of the
Max Weber Programme
European University Institute
Professor of Economics, EUI and
Universitat Pompeu Fabra – Barcelona GSE
Former Secretary of State for Science and Technology
of the Spanish Government